

30 MAR 2007



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In re Application of :
SATO et al. :
Application No.: 10/581,046 :
PCT No.: PCT/JP04/18266 :
Int. Filing: 08 December 2004 :
Priority Date: 09 December 2003 :
Attorney Docket No.: 11197/15 :
For: THERMOPLASTIC RESIN :
COMPOSITION FOR MASTERBATCH, :
PROCESS FOR PRODUCING MOLDING :
MATERIAL COMPRISING THE SAME, :
THERMOPLASTIC RESIN :
COMPOSITION OBTAINED WITH THE :
SAME, AND PROCESS FOR :
PRODUCING THE COMPOSITION :

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 16 March 2007 to accept the application without the signature of joint inventor, Shigeru Yasuda. The \$200 petition fee has been submitted.

BACKGROUND

On 08 March 2004, applicants filed international application PCT/JP04/18266 which claimed a priority date 09 December 2003. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 09 June 2006.

On 30 May 2006, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; and a preliminary amendment.

On 18 January 2007, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 16 March 2007, applicants filed a petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor.

Petitioner has satisfied items (1), (2) and (3).

As to item (4), an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor has been included with the present petition. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not include the citizenship of the third inventor (Machiko Tanaka). Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).


For the above reasons, it would not be appropriate to accept this application without the signature of Shigeru Yasuda at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTH from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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